

**REMARKS**

Claims 1-14 were examined in the Final Office Action mailed December 19, 2006.

Claims 1-14 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,992,377 to Dall'Osso, *et al.*

The Present Invention: Amended claims 1 and 2 recite that the air intake device is an air intake device for a diesel engine (*e.g.*, the embodiment shown in Figs. 1-6), in which “a throttle valve position defining a *minimum* intake air volume ... is formed at a position *slightly more open* than the mechanically fully closed position of the throttle valve,” has “a return spring for exerting a spring force on the throttle valve *toward a position defining a maximum intake air volume.*”

In a diesel engine application, since the diesel engine can operate originally without the throttle valve, the throttle valve of the present invention is located at the fully opened position during normal traveling. Thus, the return spring biases the throttle toward a full open position when the control unit is not controlling the throttle valve. The throttle valve operates at the time of engine shutdown to cut off air supply to the combustion chambers; the valve may also be operated when negative pressure is produced to return exhaust gas to the upstream side of the combustion engine. *See e.g.*, Specification at 6:7-20 (describing motion to close diesel engine throttle valve (against return spring) when needed at engine shutdown). The present invention is also arranged such that if the throttle valve is stuck in a position downstream of the fully closed

position, a bypass supplies sufficient air for startup and operation. *Id.* at 7:4-17. The Applicants note that because a diesel engine operates without throttling of air flow to control engine speed and/or power output, the bypass enables operation over a range of engine speed/power output. Such an arrangement has not been suggested before the present invention.

In contrast, Dall'Osso discloses a throttle valve of a gasoline engine with a return spring which exerts its spring force toward a position *defining a minimum* intake air volume (*i.e.*, towards the fully closed position MN), so that the gasoline engine can be reliably shutdown. *See, e.g.*, Dall'Osso at 2:43-66; Fig. 5. Thus, Dall'Osso is configured to operate in a manner *opposite* to the present invention. Further, if the Dall'Osso throttle valve is stuck in the closed position, unlike the present invention, Dall'Osso's groove provides only a fixed "limp-home" throttle position. This is because a gasoline engine requires variable throttling of air entering the combustion chamber to control the engine, which the Dall'Osso fixed-size groove does not provide.

For the foregoing reasons, the Applicants respectfully submit that Dall'Osso fails to disclose or suggest the invention recited in the amended claims, and therefore claims 1-14 are patentable over this reference. Reconsideration and withdrawal of the pending rejection based on Dall'Osso.

### CONCLUSION

In view of the foregoing amendments and remarks, the Applicants submit claims 1-14 are now in condition for allowance. Early and favorable

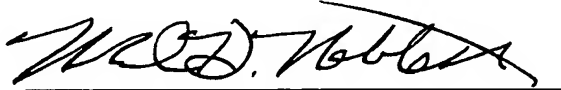
consideration, and issuance of a Notice of Allowance for these claims is respectfully requested.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 056208.52861US).

June 19, 2006

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'J. McKeown', written over a horizontal line.

James F. McKeown  
Registration No. 25,406  
Mark H. Neblett  
Registration No.: 42,028

CROWELL & MORING, LLP  
Intellectual Property Group  
P.O. Box 14300  
Washington, DC 20044-4300  
Telephone No.: (202) 624-2500  
Facsimile No.: (202) 628-8844